

EUGENE ALVIN BROXTON,

**V.**

Respondent.

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H-11-315

Petitioner Eugene Alvin Broxton is a death row inmate in the custody of the Texas Department of Criminal Justice. He has filed a petition for a writ of habeas corpus, and amended that petition twice. Respondent filed a motion for summary judgment and to dismiss on August 30, 2013. Broxton responded to the motion on November 4, 2013.

On April 20, 2014, Broxton's counsel filed an unopposed motion to withdraw from the case due to a serious health issue. On April 22, 2014, this Court granted that motion and abated the case until 180 days after new counsel was appointed. Broxton now has until January 5, 2015 to file a motion for leave to file a third amended petition.

On December 10, 2014, Broxton filed a motion for a nine month extension of time to file his motion for leave to file his third amended petition. Respondent opposes the request for a nine month extension, but consents to a three month extension.

Broxton's motion cites the complexity of the case and case record, the need for additional investigation and factual development, and the need to correct errors in the current petition as the reasons the requested extension is necessary. Broxton specifically notes that his counsel have already obtained over 11,000 pages of relevant documents and anticipate that several thousand additional pages will also require review.

Considering the complexity of this case and the voluminous record, Broxton's request is reasonable. Broxton is advised, however, that no additional extensions of time will be granted.

Accordingly, IT IS ORDERED that Petitioner's Motion For Extension of Time (Docket Entry 35) is GRANTED;

IT IS FURTHER ORDERED THAT Broxton may file a motion for leave to file a third amended petition by September 8, 2015;

IT IS FURTHER ORDERED that Broxton's motion for leave to amend must be accompanied by his proposed third amended petition;

IT IS FURTHER ORDERED that Respondent shall move for summary judgment within 120 days after leave to file a third amended petition is granted; and

IT IS FURTHER ORDERED THAT the pending motion for Summary Judgment (Instrument No. 18) is **DENIED** without prejudice to re-urging after the Court has ruled on the Motion for Leave to File a Third Amended Complaint.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED ON THIS the 11<sup>th</sup> day of December, 2014, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Vanessa D. Gilmore', written over a horizontal line.

**VANESSA D. GILMORE**  
**U. S. DISTRICT JUDGE**